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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

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IEPA-DLPC

Civil Action No.

UNITED STATES OF AMERICA,

Plaintiff

v.

PAXTON LANDFILL CORPORATION,
STRYKER INTERNATIONAL, INC.
and AMERICAN NATIONAL BANK
and TRUST COMPANY as TRUSTEE
for STRYKER INTERNATIONAL INC.,

Defendants.

COMPLAINT

Plaintiff, the United States of America, at the request
and on behalf of the Administrator of the United States Environmental
Protection Agency ("EPA"), alleges that:

PRELIMINARY STATEMENT

1. This is a civil action pursuant to Section 3008(a)
of the Solid Waste Disposal Act, as amended by the Resource
Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6928(a), for
violations of federal permit requirements for the disposal of
hazardous waste and for violations of Illinois rules and regulations
governing treatment, storage and disposal of hazardous waste,
35 Ill. Adm. Code Parts 700-725. Plaintiff's statutory authority
to enforce the provisions of 35 Ill. Adm. Code Parts 700-725 is
Section 3008(a) of RCRA, 42 U.S.C. §6928(a).

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Environmental Protection Agency
Enforcement Section

3-4-85

1701 FIRST AVENUE
MAYWOOD, ILLINOIS 60153

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331(a), 1345 and 42 U.S.C. §6928(a)(1).

3. Venue is proper in this district pursuant to 28 U.S.C. §§1391(b), (c) and 42 U.S.C. §6928(a)(1), because the violations complained of and claims asserted herein arose in this district, and defendant corporations do business in this district.

DEFENDANTS

4. Defendant Paxton Landfill Corporation ("Paxton") is a corporation organized and existing under the laws of the State of Illinois. Paxton is and has been doing business in the State of Illinois at all times relevant hereto. Paxton is the operator of the site which is the subject of this action, described in paragraph 13 below (hereinafter referred to as the "site" or "Paxton Landfill").

5. Defendant Stryker International, Inc. ("Stryker"), is a corporation organized and existing under the laws of the State of Illinois. Stryker is and has been doing business in the State of Illinois at all times relevant hereto. Stryker is the sole beneficiary of the land trust in which title to the site is vested. Stryker is named a party defendant herein in its capacity as owner of the site.

6. Paxton is a wholly-owned subsidiary of Stryker.

7. Defendant American National Bank and Trust Co. ("the Bank") is chartered by the Comptroller of Currency to do

business as a National Banking Association and is and has been doing business in the State of Illinois at all times relevant hereto. The Bank is the trustee of the land trust in which title to the site is vested. The Bank is named a party defendant herein in its capacity as owner of the site. Relief is sought against the Bank only to the extent of its interest in the site.

NOTICE

8. Notice of the commencement of this action has been given to the State of Illinois pursuant to 42 U.S.C. §6928(a)(2).

STATUTORY BACKGROUND

9. The Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq., establishes a federal regulatory program for the proper transport, storage, treatment and disposal of hazardous waste. EPA administers the program, except to the extent that the states have received authorization from EPA to administer equivalent programs.

10. RCRA requires owners and operators of facilities which treat, store or dispose of hazardous waste to have a permit (or, pending final disposition of a permit application, to qualify for "interim status" authority to operate). 42 U.S.C. §§6921, 6922, 6923, 6924, 6925, 6926, 6930. Persons who treat, store or dispose of hazardous waste without a permit or "interim status" authority are subject to civil and criminal penalties. 42 U.S.C. §6928.

11. RCRA also authorized the Administrator of EPA to promulgate regulations establishing, inter alia, performance

standards for owners and operators of facilities which treat, store or dispose of hazardous waste. These "interim status" performance standards were promulgated at 45 Fed. Reg. 33232 (May 19, 1980), now codified at 40 C.F.R. Part 265.

12. On May 17, 1982, EPA authorized the State of Illinois to administer Phase I of the RCRA hazardous waste program, pursuant to Section 3006 of RCRA, 42 U.S.C. §6926, and 40 C.F.R. Part 123 (now codified at 40 C.F.R. Part 271). 47 Fed. Reg. 21043. Illinois' rules and regulations promulgated pursuant to this authorization are set forth at 35 Ill. Adm. Code Part 700 et seq. Illinois' "interim status" performance standards for owners and operators of facilities which treat, store or dispose of hazardous waste are set forth at 35 Ill. Adm. Code Part 725.

THE PAXTON LANDFILL

13. Paxton operates a 100 acre solid waste landfill located at 12201 South Oglesby, Chicago, Illinois (hereinafter, the "Paxton Landfill" or the "Landfill"). The geographic location of the Landfill is 41° 40' 52" latitude and 87° 34' 08" longitude. The Landfill consists of active and non-active waste disposal areas, dedicated but unimproved streets and assorted ancillary buildings. The Landfill has been operated as a landfill since the mid-1960s.

14. Ownership of the Paxton Landfill is vested in Illinois land trust #33832. The Bank is the trustee and Stryker is the sole beneficiary of the trust.

THE PERMIT

15. On July 10, 1980, pursuant to section 3010(a) of RCRA, 42 U.S.C. §6930(a), Paxton filed with EPA a notification of hazardous waste activity as a person who treats, stores or disposes of hazardous waste at the Paxton Landfill. (A copy of the notification is attached hereto as Exhibit A.)

16. On November 18, 1980, pursuant to section 3005 of RCRA, 42 U.S.C. §6925, Paxton filed with EPA "Part A" of a permit application to treat, store, and dispose of hazardous waste at the Paxton Landfill. Paxton's permit application stated that it had previously landfilled hazardous waste but henceforth would discontinue that practice and accept only hazardous waste which would be processed and destroyed by means of a distillation column and incinerator. (A copy of Paxton's "Part A" application is attached hereto as Exhibit B.)

17. On or about March 22, 1982, EPA notified Paxton that on the basis of Paxton's "Part A" permit application the Paxton Landfill met the requirements for "interim status" authority to operate, pursuant to Section 3005(e) of RCRA, 42 U.S.C. §6925(e). Paxton's authority to handle hazardous wastes was limited to the processes and methods described in its Part A application, i.e. processing and/or destruction of hazardous wastes by means of a distillation column and incinerator. 40 C.F.R. §270.71. Paxton was also informed by EPA that the Landfill must comply with the performance standards for "interim status" operation set

forth at 40 C.F.R. Parts 122 (recodified as Part 270) and 265, or with state rules and regulations in the event that Illinois became authorized to administer the RCRA program. (A copy of EPA's notification to Paxton is attached hereto as Exhibit C.)

18. On or about April 28, 1983, EPA requested Paxton to submit "Part B" of its permit application for the Paxton Landfill, pursuant to section 3005 of RCRA, 42 U.S.C. §6925, and 40 C.F.R. 122.22 (now codified at 40 C.F.R. 270.10). Paxton was required to submit the information by October 31, 1983.

19. On or about August 12, 1983, Paxton informed EPA and the State of Illinois Environmental Protection Agency that the distillation column and incinerator identified as the means of processing or disposal of hazardous wastes at the Paxton Landfill had never been installed, that hazardous wastes would not be accepted at the Landfill, and that Paxton therefore did not need a RCRA permit and would not submit "Part B" of its permit application as requested by EPA. Paxton also stated that no hazardous waste had been accepted at the Paxton Landfill subsequent to November 19, 1980, and that the "interim status" performance standards (40 C.F.R. 265; 35 Ill. Adm. Code Part 725) therefore do not apply to the facility.

DEFENDANTS' ACTS

20. Hazardous waste was accepted at the Paxton Landfill after November 19, 1980, including but not limited to the following instances:

a. During the period November 3, 1981, to December 28, 1981, approximately 140 cubic yards of composite paint sludge (EPA hazardous waste nos. D007, D008) were accepted;

b. During the period October 1, 1981, through October 30, 1981, approximately 14,000 gallons of ink and water rinse (EPA hazardous waste no. D008) were accepted;

c. On September 9, 1982, approximately 3500 gallons of tank bottoms (EPA hazardous waste nos. D004, D008) were accepted;

d. On September 10, 1982, approximately 11,000 gallons of tank water and sludge bottoms (EPA hazardous waste nos. D004, D008) were accepted.

21. The wastes described in paragraph 20 were disposed of at the Paxton Landfill by landfilling.

FIRST CLAIM FOR RELIEF

22. Plaintiff realleges and incorporates paragraphs 1 through 21 herein.

23. The disposal of hazardous waste at the Paxton Landfill by landfilling was outside the scope of the facility's "interim status" authorization and constitutes a violation of Section 3005 of RCRA, 42 U.S.C. §6925.

24. As the owners and operators of the Paxton Landfill, defendants are subject to injunctive relief and civil penalties under Section 3008 of RCRA, 42 U.S.C. §6928.

SECOND CLAIM FOR RELIEF

25. Plaintiff realleges and incorporates paragraphs 1-24 herein.